## APPENDIX A

John Eager Howard, Esquire, Governor.

### CHAP. XLIV.

An ACT to condemn land, if necessary, for the public buildings of the United States.

WHEREAS it may happen, that within the district defined, limited and located, between the mouth of the Eastern Branch and Conococheague, for the permanent seat of the government of the United States, part of the land in the said district proper and necessary to be laid out for the erection of the public buildings, may be owned by persons who may refuse to accept a reasonable price therefor, or by married women, or by persons under age or nonresidents of this state,

II. Be it enacted, *by the General Assembly of Maryland,* That in case the proprietors of any land, within the district aforesaid, which may be necessary for the erection of public buildings, and for other public purposes, shall refuse to sell to, or accept a reasonable compensation for the same from, the commissioners appointed or to be appointed by the president of the United States, or shall be married women, or under age, or nonresidents, or persons unknown or not to be found, that the commissioners aforesaid, or any two of them, be and hereby are authorised to order the sheriff of the county in which such land shall lie, to summon not less than twelve, nor more than twenty-three, inhabitants of his county, not interested or related to persons interested, qualified by law to be grand jurors of the general court, to appear on the land; and the said sheriff shall impannel and swear as many of the said jurors as shall appear, not less than twelve, to inquire of the owners of the said land, and the value of the said land,

and the said sheriff shall return the said inquest to the clerk of his county, to be recorded; and thereupon the owners of the said land shall be entitled to receive such valuation; and after such inquest, the said land shall for ever belong to the United States: Provided, that not above the quantity of one hundred and thirty acres, shall be liable to be condemned in virtue of this act. (Passed December 22, 1790)

## APPENDIX B

## TERMS OF ORIGINAL AGREEMENT

The terms of the sale of land to the Government were agreed to on March 30, 1791, under which the original owners agreed to convey to the United States Government, free of cost, such portions of their farms as were needed for streets, parks, and other public reservations; and to sell such land as was needed for Government buildings and public improvements at £25 per acre (about $67). The remaining land was to be laid out in building lots and apportioned equally between the Federal Government and the original owners. Rufus R. Wilson, in Washington, the Capital City, says:

> In this way, without advancing a dollar and at a total cost of $36,000, the Government acquired a tract of 600 acres in the heart of the city. The 10,136 building lots assigned to it ultimately proved to be worth $850,000, and now represent a value of $70,000,000. Shrewd financier as he was, it is doubtful if Washington ever made another so good a bargain as that with Burnes and his neighbors.

The following is a copy of the agreement:

### THE AGREEMENT OF PRESIDENT WASHINGTON WITH THE ORIGINAL PROPRIETORS

> We, the subscribers, in consideration of the great benefits we expect to derive from having the Federal City laid off upon our Lands, do hereby agree and bind ourselves, heirs, executors, and administrators, to convey, in Trust, to the President of the United States, or Commissioners, or such person or persons as he shall

appoint, by good and sufficient deeds, in Fee simple, the whole of our respective Lands which he may think proper to include within the lines of the Federal City, for the purposes and on the conditions following:

The President shall have the sole power of directing the Federal City to be laid off in what manner he pleases. He may retain any number of Squares he may think proper for public Improvements, or other public Uses, and the lots only which shall be laid off shall be a joint property between the Trustees on behalf of the public, and each present proprietor, and the same shall be fairly and equally divided between the public and the Individuals, as soon as may be, after the City shall be laid off.

For the streets the proprietors shall receive no compensation; but for the squares or Lands in any form, which shall be taken for public buildings, or any kind of public improvements, or uses, the proprietors, whose lands shall be so taken, shall receive at the rate of twenty-five pounds per acre, to be paid by the public.

The whole wood on the Lands shall be the property of the proprietors.

But should any be desired by the president to be reserved or left standing, the same shall be paid for by the public at a just and reasonable valuation, exclusive of the twenty-five pounds per acre to be paid for the land, on which the same shall remain.

Each proprietor shall retain the full possession and use of his land, until the same shall be sold and occupied by the purchasers of the Lots laid out thereupon, and in all cases where the public arrangements as to streets, lotts, etc., will admit of it, each proprietor shall possess his buildings and other improvements, and graveyards, paying to the public only one-half the present estimated value of the Lands, on which the same shall be, or twelve pounds ten shillings per acre. But in cases where the arrangements of the streets, lotts, squares, etc., will not admit of this, and it shall become necessary to remove such buildings, improvements, etc., the proprietors of the same shall be paid the reasonable value thereof, by the public.

Nothing herein contained shall affect the Lotts which any of the parties to this Agreement may hold in the Towns of Carrollsburgh or Hamburgh.

In witness whereof we have hereunto set our hands and Seals, this thirtieth day of March, 1791.

Signed & sealed in presence of us—Mr. Thos. Beall, making an exception of the Lands he sold Abraham Young not yet conveyed.

Witness to all the subscribers including William Young
William Bayly
William Robertson
John Suter
Samuel Davidson witness to Abraham Young's signing
Benj. Stoddert witness to Edward Peirce's signing
Joseph E. Rowless for Jno. Waring
Wm. Deakings Junr. for Wm. Prout & William King as attorney in fact.

Signed

| | |
|---|---|
| Robert Peter | (Seal) |
| David Burnes | (Seal) |
| Jas. M. Lingan | (Seal) |
| Uriah Forrest | (Seal) |
| Benj. Stoddert | (Seal) |
| Notley Young | (Seal) |
| Dan. Carroll of Dn. | (Seal) |
| Overton Carr | (Seal) |
| Thos. Beall of Geo. | (Seal) |
| Charles Beatty | (Seal) |
| Anthony Holmead | (Seal) |
| Wm. Young | (Seal) |
| Edward Peirce | (Seal) |
| Abraham Young | (Seal) |
| James Peirce | (Seal) |
| William Prout | (Seal) |
| Robert Petter as attorney in fact for Eliphas Douglas. | (Seal) |
| Benj. Stoddert for Jno. Waring by written authority from Mr. Waring. | (Seal) |
| William King | (Seal) |

(Source: A Manual on the Origin and Development of Washington, By H. Paul Caemmerer, 75th Congress, 3d Session, Senate Document No. 178, U.S. Gov. Printing Office, Washington, 1939)

## APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

| | | |
|---|---|---|
| LATENT ENERGY STORAGE CO., INC., et al. | * | |
| v. | * | Civil No. Y-81-3046 |
| ESTELLE G. WOOD, et al. | * | |

Filed: January 29, 1962 (1982)

William A. Albaugh, Mt. Rainier, Maryland, pro se.

James A. Rothschild, Esquire, Assistant United States Attorney, Baltimore, Maryland, counsel for the defendant United States Government.

Susan K. Gauvey, Esquire, Assistant Attorney General for the State of Maryland, Baltimore, Maryland, counsel for the defendant State of Maryland.

Judith W. Rogers, Esquire, Washington, D.C., John H. Suda, Esquire, Washington, D.C., and Michael E. Zielinski, Esquire, Washington, D.C., counsel for the defendant District of Columbia Government.

Ronald Willoner, Esquire, College Park, Maryland, Counsel for the defendant Board of Election Supervisors.

YOUNG, United States District Judge.

## MEMORANDUM AND ORDER

Plaintiffs[1] have brought this complaint against the defendants,[2] members of the Supervisors of Elections of Prince George's County, the Government of the State of Maryland, the Government of the District of Columbia, and the United States Government, for maladministration of the Maryland Congressional Election Law, for refusing to register plaintiff William A. Albaugh to vote in the appropriate Maryland Congressional Election, subjecting plaintiffs to taxation without representation, and changing the geographical boundaries of Maryland without the constitutionally required legal authorization. All defendants have moved to dismiss on grounds of *res judicata*. In addition, the members of the Supervisors of Elections have counterclaimed for attorneys' fees and costs for vexatious litigation.

The issue, which the individual plaintiff seeks once more to have adjudicated, of whether the District of Columbia is still legally part of the state of Maryland, has been authoritatively decided against Albaugh. *Albaugh v. Tawes,* 233 F. Supp. 576 (D. Md.), *aff'd,* 379 U.S. 27, *reh. denied,* 379 U.S. 940 (1964). Since that initial decision, Albaugh has filed numerous suits seeking a different judgment. One of the more recent attempts to litigate these issues was in this Court, *Albaugh v. United States, et al.,* K-78-2335 (D. Md., filed December 26, 1979). In that

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[1]The corporate plaintiff is unrepresented since the individual plaintiff is not an attorney and cannot represent the corporation. However, rather than deal with this point, the entire case will be resolved by the Order herein.

[2]The complaint was originally filed in the Circuit Court of Maryland for Prince George's County. The United States removed the case to federal court.

case, Chief Judge Kaufman dismissed the case on the ground of *res judicata*, chronicling in detail the history of plaintiff's litigation of this issue. This Court rests on the well-reasoned opinion of Judge Kaufman. Plaintiff's claims are barred by the doctrine of *res judicata*.

Some of the defendants have filed a counterclaim for costs and attorneys' fees, claiming the suit was brought without substantial justification. The court declines to award attorneys' fees and costs in the instant case, but the plaintiff is hereby put on notice that a subsequent suit based on the same issue against the same defendants will be considered vexatious and appropriate costs and fees will be assessed.

For the above reasons, it is this 29th day of January, 1982, by the United States District Court for the District of Maryland, ORDERED:

1. That plaintiffs' suit BE, and the same IS, hereby DISMISSED with prejudice; and

2. Defendants' cross-claim for costs and attorneys' fees BE, and the same IS, hereby DISMISSED.

/s/

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

| | | |
|---|---|---|
| LATENT ENERGY STORAGE CO., INC., and WILLIAM A. ALBAUGH | • | |
| v. | • | Civil No. Y-81-3046 |
| ESTELLE G. WOOD, President; MARY E. DEVANEY, CHARLES C. DEEGAN, Supervisors of Elections of Prince George's County; STATE OF MARYLAND GOVERNMENT: DISTRICT OF COLUMBIA GOVERNMENT: and UNITED STATES GOVERNMENT | • | |

JUDGMENT

In accordance with the Memorandum and Order of the Honorable Joseph H. Young dated January 29, 1982, filed in the above entitled case, it is

ORDERED AND ADJUDGED:

That Judgment be, and the same is, hereby entered in favor of defendants against plaintiffs.

Dated at Baltimore, Maryland this 1st day of February, 1982.

PAUL R. SCHLITZ, Clerk

By: /s/
R. Bruce McElhone
Deputy Clerk

## APPENDIX D

## UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

**No. 82-1086**

Latent Energy Storage Co., Inc.,

Plaintiff,

and

William A. Albaugh,

Appellant,

v.

Estelle G. Wood, President; Mary E. Devaney, Charles C. Deegan, Supervisors of Elections of Prince George's County; State of Maryland Government; District of Columbia Government; and United States Government,

Appellees.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Joseph H. Young, District Judge.

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Submitted: March 17, 1982 Decided: April 22, 1982

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Before RUSSELL, HALL, and MURNAGHAN, Circuit Judges.

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(William A. Albaugh, Appellant Pro Se. Ronald Willoner, Willoner, Calabrese & Rosen, for Appellees Board of Elections Supervisors; Stephen H. Sachs, Attorney General, Susan K. Gauvey, Assistant Attorney General, for Appellee State of Maryland; J. Frederick Motz, United States Attorney, James A. Rothschild, Assistant United States Attorney, for Appellee United States Government.)

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PER CURIAM:

Appellant William Albaugh brought suit against these defendants challenging the right of the District of Columbia to tax his corporation and the refusal of Maryland officials to allow him to vote in that state's elections. At the time he filed the suit, Albaugh was resident of the District and his corporation was located within the District's geographical boundaries.

The contention underlying Albaugh's claim is that the part of the District in which he resides was never validly transferred from the State of Maryland. The district court ruled that numerous decisions adverse to Albaugh on this very issue barred presentation of the claim yet again. See *Albaugh v. Tawes*, 233 F. Supp. 576 (D. Md.), *aff'd*, 379 U.S. 27 (1964); *Albaugh v. United States*, No. K-78-2335 (D. Md. 1979); *Albaugh v. United States*, No. T-76-378 (D. Med. 1976); *Albaugh v. Mandel*, No. 74-1282 (D.D.C. 1974), *aff'd*, No. 74-2110 (D.C. Cir., May 9, 1975), *cert. denied*, 423 U.S. 935 (1975); *Albaugh v. Agnew*, No. 19599 (D. Md. 1968). We agree with the decision reached by the district court, and we caution Albaugh to heed that court's warning that costs and attorneys' fees may be im-

posed against him if he continues to prosecute this same claim time and time again.

The record and other materials before this Court indicate that oral argument would not aid the decisional process. We therefore dispense with oral argument and affirm the judgment of the district court.